

Remarks

The Office action dated January 30, 2004, in which the Examiner rejected pending claims 1-5, 7-18 and 20 and 22 has being reviewed. In view of the following remarks and amendments, Applicant respectfully submits that the application is in condition for allowance.

Claims 1, 9 and 13 have been amended, claim 22 has been cancelled, and claim 23 has been added. Support for new claim 23 can be found in the application at least at page 8, lines 6-22 (e.g., thermoforming station 20 includes oven 56 and mold 58 located within the oven). Claims 1-5, 7-18, 20 and 23 are now pending in the present application.

A first claim set (i.e., claims 1-5 and 7-8), a second claim set (i.e., claims 9-12) and a third claim set (i.e., claims 13-18 and 20) were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner refers to the phrases “placing said sheet in contact with a contoured molding tool” and “at least partially simultaneously with said sheet being in contact with said contoured molding tool” as not being supported in the instant disclosure. Additionally, claim 22 was rejected under 35 U.S.C. §112, first paragraph, as lacking support in the instant disclosure (the “application”).

Claim 22 has now been cancelled. Therefore, the rejection of claim 22 under 35 U.S.C. §112, first paragraph is considered moot.

With respect to the section 112 rejection regarding the phrase “placing said sheet in contact with a contoured molding tool”, the Applicant respectfully disagrees with the Examiner’s conclusion that the disclosed step of placing the sheet “directly over” the mold “neither constitutes nor supports the sheet being in contact with the contoured molding tool.” The phrase “directly over” taken alone and apart from the present context may suggest a wide

variety of meanings. However, those of skill in the art will appreciate that, within the present application (at pg. 8, line 12), the subject phrase is to be interpreted in light of the surrounding information in the specification. For example, the application states that contoured mats having integrally formed nibs on the underside thereof are producing using a thermoforming process (See pg. 4, lines 5-6), and Fig. 5 shows the thermoforming component of the vehicle mat production line (See pg. 8, lines 6 and 7). Thermoforming can, and frequently does, involve placing an item to be thermoformed (i.e., mat 52) either touching/contacting a surface of a mold, or above and spaced from a mold, but in close proximity thereto. Therefore, by describing a thermoforming process, and with the illustrations of FIG. 5, it is clear that when the Applicant speaks of placing a mat blank “directly over” the mold 58, it can have the dual meaning of (a) the blank being laid upon the mold (i.e., in contact therewith), or (b) suspended above or otherwise spaced from the mold, whereupon drawing of the blank will cause it to conform to the contour of the mold 58 shown in FIG. 5. Nevertheless, for the sake of clarity, the Applicant has amended claims 1, 9 and 13 to replace the “in contact with” with the phrase “directly over” in order to use the exact phraseology of the present application. Additionally, the phrasing “at least partially simultaneously with said sheet being in contact with said contoured molding tool” has been removed from claims 1, 9 and 13. Therefore, it is respectfully requested that the rejection of independent claims 1, 9 and 13 under 35 U.S.C. §112, first paragraph be withdrawn.

Because claims 2-5, 7 and 8 depend directly or indirectly from claim 1, claims 10-12 depend directly or indirectly from claim 9, and claims 14-18 and 20 depend directly or indirectly from claim 13, all of which contain at least the limitations of the respective base claim, it is respectfully requested that the rejection of claims 2-5, 7, 8, 10-12, 14-18 and 20 be withdrawn.

Claims 1-5, 7-18, 20 and 23 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded by the application as the invention. The Applicant has remove the language related to the step of heating the sheet that the Examiner deemed confusing; further, claim 22 has been cancelled. Therefore, it is respectfully requested that the rejection of claims 1-5, 7-18, 20 and 23 under 35 U.S.C. §112, second paragraph be withdrawn.

Claims 1-5, 7-18 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Schrinier et al (U.S. 2,915,427) in view of Reuben (U.S. 5,171,619), Bailey (U.S. 4,828,898) and Grover (U.S. 2,623,242). Essentially, the Examiner argues that the mat disclosed in the Reuben reference and the mold tools disclosed in the Bailey and Grover references could be used in the method disclosed in the Schrinier reference and the combination would render Applicant's claimed methods obvious. Applicant submits that these references do not establish a prima facie case of obviousness with regard to the claims as amended. Applicant, therefore, respectfully traverses the rejections.

When applying 35 U.S.C. §103, the following tenants of patent law, among others, must be adhered to: (a) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; and (b) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). Applicant asserts that the Examiner's rejections under section 103 cannot be substantiated in view of the aforementioned tenants.

Schriner et al. discloses a method for making a carpet surfaced plastic mat including two main embodiments. In one embodiment, wetted textile fabric is pressed down into

a mold and a rubber mat blank is subsequently placed over the fabric, with suction applied until the blank is cured. The fabric may then be treated with hot water to raise the pile surface. Of note, there is no heating of either or both components until after the suction and curing of the blank has occurred. Contrastingly, in the Applicant's invention, drawing is conducted on the heated sheet that has been placed directly over the contoured molding tool. In another embodiment of Schriner et al., fabric may be initially treated in a steam press having a male and a female platen, and then upon drying, the fabric is transferred to a suction mold for application of the rubber blank. By treating the fabric in a steam press and subsequently moving it to a suction mold (and waiting for drying to take place), the fabric loses significant heat before being acted upon by the suction mold. On the other hand, the claimed methods involve drawing the heated sheet towards the tool (in keeping with thermoforming principles), and don't require any fabric to dry before being acted upon in molding (See, e.g., pg. 8, lines 7-8 and 21-22 of the present application, where in one embodiment the mold is located within the oven so molding can take place quickly after heating).

Rueben does not provide the teachings lacking, in Schriner et al., namely, (a) placing a thermoplastic sheet directly over a contoured molding tool having one or more sidewalls extending upwardly from a flat base and a top surface, such that a second surface having nibs extending therefrom is directed away from the tool, (b) and drawing of the heated sheet into contact with the contoured molding tool. Rueben simply does not discuss using a molding tool to form material into a desired contour after any nibs are formed on a mat.

Likewise, Bailey also does not provide the aforementioned teachings lacking in Schriner et al., Rueben or the combination thereof, and further, nothing in Bailey, Rueben or

Schriner et al. suggest the *desirability* of combining these references to arrive at the method of producing a vehicle mat as claimed by the Applicant.

Bailey discloses a method of manufacturing a floor mat where carpet and foam are brought into juxtaposition and thermofoamable material is deposited therebetween. The laminated structure is then moved to a shearing station, then to an oven, and thereafter to a mold having both male 58 and female parts 56 where it is shaped (See Fig. 5). Thus, Bailey contrasts with the Applicant's claimed invention in that any nibs formed on one side of the sheet are not directed away from the tool, but would be contacted by one of the male and female mold parts integrated into the structure of Schriner et al., which would destroy the integrity of the nibs and defeat their intended function.

Further, Bailey teaches away from the use of nibs on a floor mat, instead relying on the tray-like shape of the floor mat to prevent mat sliding. Bailey states that these types of mats (with nibs) may have disadvantages, such as having undue complexity and manufacturing expense (See col. 2, lines 3-7). Thus, it is no surprise that the mat manufacturing methods of Bailey – utilizing a male and female mold – do not accommodate one of the sides of the mat having nibs during the molding process; such nibs would be compressed and damaged by the opposing molds, the effect being multiplied by the fact that such mats are heated and more malleable during molding.

Grover relates to an improvement in the means employed to support individual mold leaves when a curing oven has been opened (See Col. 1, lines 45-49). Thus, Grover involves the use of opposing mold leaves in much the same way as Bailey. Grover does not, therefore, provide the teachings lacking in Bailey, Rueben or Schriner et al.; namely, (a) placing a thermoplastic sheet directly over a contoured molding tool having one or more sidewalls

extending upwardly from a flat base and a top surface, such that a second surface having nibs extending therefrom is directed away from the tool, (b) and drawing of the heated sheet into contact with the contoured molding tool.

Therefore, not only are the teachings and suggestions of the aforementioned references, alone or in combination, insufficient to arrive at the method of vehicle mat production claimed by the applicant, but even if sufficiency of combination could be found, the only suggestion for such combination in the manner proposed by the Examiner is found in the luxury of hindsight afforded one who first viewed the Applicant's disclosure. It is insufficient to find obviousness through a process of picking and choosing, in the prior art, individual features that could possibly be combined into a "theoretical" prior art mat and then extrapolating that the such a mat could be made according to the Applicant's claimed method. The question under 35 U.S.C. §103(a) is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983). Neither Schriner et al., Reuben, Bailey, or Grover, alone or in combination, teach or suggest the invention as claimed by the Applicant in claims 1, 9 or 13.

Thus, the cited references fail to teach or suggest in the invention as claimed by the Applicant in claims 1, 9 or 13. As such, withdrawal of the rejections of claims 1, 9 and 13 under 35 U.S.C. 103(a) as being unpatentable over Schriner et al. in view of Reuben, Bailey and Grover is respectfully requested.

Claims 2-5, 7, 8 and 23, claims 10-12 and claims 14-18 and 20 depend either directly or indirectly from independent claims 1, 9 and 13, respectively. As claims 1, 9 and 13 are believed to be allowable over the references of record, Applicant respectfully asserts that

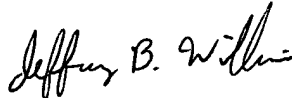
claims 2-5, 7, 8, 10-12, 14-18, 20 and 23 also are allowable. Withdrawal of the rejection under 35 U.S.C. 103(a) of claims 2-5, 7, 8, 10-12, 14-18, 20 and 23 as being unpatentable over Schrinier et al. in view of Reuben and Bailey is respectfully requested.

Based on the foregoing, it is submitted that the Applicant's invention as defined by claims 1-5, 7-18, 20 and 23 is patentable over the references of record. Issuance of a Notice of Allowance is solicited.

The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 19-2112.

Should the Examiner believe that issues remain outstanding, the Examiner is welcome to call Applicant's undersigned attorney in an effort to resolve such issues and advance this application to issue. This should be considered a complete response to the Examiner's Office action dated January 30, 2004.

Respectfully submitted,



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